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In re Application of: : DECISION
OHSawa, Kenji, et al. :
U.S. Application No.: 10/583,504 :
PCT No.: PCT/JP2006/301925 :
International Filing Date: 31 January 2006 :
Priority Date: 01 September 2005 :
Atty Docket No.: 1625-210 :
For: HEAT PIPE AND METHOD FOR :
MANUFACTURING SAME :
:

This decision is issued in response to the "Request For Corrected Filing Receipt" filed 18 April 2007, treated herein in part as a petition under 37 CFR 1.181 to correct the 35 U.S.C. 371(c) date to 20 March 2006. No petition fee is required.

BACKGROUND

On 31 January 2006, applicants filed international application PCT/JP2006/301925. The international application claimed a priority date of 01 September 2005 and it designated the United States. On 15 March 2007, the International Bureau (IB) communicated a copy of the international application to the United States Patent and Trademark Office (USPTO). The deadline for submitting the basic national fee is 01 March 2008, i.e., thirty months from the priority date.

On 20 March 2006, applicants filed a Transmittal Letter requesting entry into the U.S. national stage accompanied by, among other materials, payment of the basic national fee, an executed declaration, and a copy of the description, abstract, claims, and drawings of the international application. The submission did not include a copy of the Request (Form PCT/RO/101). These materials were initially assigned U.S. application number 10/572,517.

On 27 April 2006, applicants filed a second copy of the papers originally filed on 20 March 2006. These materials were assigned the present U.S. application number, 10/583,504.

On 08 August 2006, the United States Designated/Elected Office (DO/EO/US) mailed a "Notice Of Cancellation Of Assigned Serial Number" (Form PCT/DO/EO/908) indicating that serial number 10/572,517 had been cancelled and that all further communications should be directed to application number 10/583,504.

On 15 November 2006, the DO/EO/US mailed a "Notice Of Insufficient Basic National Fee Required And/Or Missing Copy Of International Application Under 35 U.S.C. 371 And 37

CFR 1.495" (Form PCT/DO/EO/912) indicating that a "Copy of International Application, which includes a copy of the Request Form, submitted to the International Bureau is missing."

On 26 January 2007, applicants filed a "Response To Notice Of Insufficient Basic National Fee Required And/Or Missing Copy Of International Application Under 35 U.S.C. 371 And 37 CFR 1.495" accompanied by an additional copy of the description, abstract, claims, and drawings, as well as a copy of the Request form.

On 27 February 2006, the United States Designated/Elected Office (DO/EO/US) mailed a "Notification Of Acceptance" (Form PCT/DO/EO/903) identifying the "Date Of Receipt Of 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) Requirements" and the "Date Of Completion Of All U.S.C. 371 Requirements" as 27 April 2006. Also on 03 October 2005, a filing receipt was issued that identified the "Filing Date or 371(c) Date" as 27 April 2006.

On 18 April 2007, applicants filed the "Request For Corrected Filing Receipt" considered herein as a petition under 37 CFR 1.181. The petition requests correction of the "Filing Date or 371(c) Date" listed on the filing receipt from 27 April 2006 to 20 March 2006.¹

DISCUSSION

The present petition requests that the "Filing Date or 371(c) Date" listed on the filing receipt be corrected from 27 April 2006 to 20 March 2006.

The "Filing Date or 371(c) Date" listed on the filing receipt for a national stage application filed under 35 U.S.C. 371 is the date of completion of the requirements of 35 U.S.C. 371(c)(1), (c)(2), and (c)(4). See MPEP 1893.03(b).

A review of the application file reveals that the materials filed by applicant on 20 March 2006 included the basic national fee and an executed declaration in compliance with 37 CFR 1.497. Accordingly, as of 20 March 2006, applicants had satisfied the requirements of 35 U.S.C. 371(c)(1) and (c)(4).

With respect to the requirement of 35 U.S.C. 371(c)(2), applicants filed the present national stage prior to publication of the international application and therefore prior to the communication of a copy of the international application to the USPTO from the IB. Accordingly, in order to satisfy the requirement of 35 U.S.C. 371(c)(2), applicants were obligated to provide to the USPTO a copy of the complete international application as filed. According to 35 CFR 1.431, an international application shall contain, as specified by the Treaty and the Regulations, a Request, a description, one or more claims, an abstract, and one or more drawings (where required); see also PCT Article 3.

Here, applicants' 20 March 2006 and 27 April 2006 submissions included copies of the description, claims, abstract, and drawings contained in the international application; however, neither of these submissions included a copy of the PCT Request (PCT/RO/101) filed as part of

¹ Applicants also request correction of a spelling error in the assignee's name; this typographical error will be corrected as requested.

the international application. Applicants did not file a copy of the Request form until 26 January 2007, when a copy of the Request was filed as part of applicant's response to the Form PCT/DO/EO/912. Accordingly, a complete copy of the international application (including the Request form) was first filed herein on 26 January 2007. The date of completion of the requirements of 35 U.S.C. 371(c)(2) for the present national stage application is therefore 26 January 2007.

Based on the above, the date of completion of the requirements of 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) for the present national stage application is 26 January 2007.

The Notification Of Acceptance and filing receipt mailed 27 February 2007, both of which identified the 35 U.S.C. 371(c) date as 27 April 2006, are therefore appropriately vacated, to be replaced by corrected versions which properly identify the 35 U.S.C. 371(c) date as 26 January 2007.

CONCLUSION

The petition under 37 CFR 1.181 to correct the 35 U.S.C. 371(c) date from 27 April 2006 to 20 March 2006 is **DISMISSED** without prejudice.

A review of the application file reveals that the correct date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) for the present application is 26 January 2007.

The Notification Of Acceptance and filing receipt mailed 27 February 2007, both of which identified the 35 U.S.C. 371(c) date as 27 April 2006, are hereby **VACATED**.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Such a petition should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181" and must include an acceptable showing confirming that applicants submitted to the USPTO a copy of the complete international application as filed, including the Request form, prior to 26 January 2007.

No additional petition fee is required.

Please direct further correspondence with respect to this petition to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration

The application is being referred to the National Stage Processing Branch of the Office of PCT Operations for further processing in accordance with this decision, including the mailing of

a corrected Notification Of Acceptance and filing receipt, both of which properly identified the 35 U.S.C. 371(c) date as 26 January 2007.



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